

The Gazette of India



EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in the Lok Sabha on 3rd September, 1954:—

BILL* No. 39 OF 1954

A Bill further to amend the Indian Income-tax Act, 1922, to provide for the assessment or reassessment of persons who have to a substantial extent evaded payment of taxes during a certain period and for matters connected therewith.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Income-tax (Amendment) Act, 1954.

(2) It shall be deemed to have come into force on the 17th day of July, 1954.

2. Amendment of section 34, Act XI of 1922.—In section 34 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act), after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If, in the case of any assessee, the Income-tax Officer has reason to believe—

(i) that income, profits or gains chargeable to income-tax have escaped assessment for any year in respect of which the relevant previous year falls wholly or partly within the period beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1946; and

(ii) that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more;

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha the introduction and consideration of the Bill.

he may, notwithstanding that the period of eight years or, as the case may be, four years specified in sub-section (1) has expired in respect thereof, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and may proceed to assess or reassess the income, profits or gains of the assessee for all or any of the years referred to in clause (i), and thereupon the provisions of this Act [excepting those contained in clauses (i) and (iii) of the proviso to sub-section (1) and in sub-sections (2) and (3) of this section] shall, so far as may be, apply accordingly:

Provided that the Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so, and the Central Board of Revenue is satisfied on such reasons recorded that it is a fit case for the issue of such notice:

Provided further that no such notice shall be issued after the 31st day of March, 1956.

(1B) Where any assessee to whom a notice has been issued under sub-section (1A) applies to the Central Board of Revenue at any time within six months from the receipt of such notice or before the assessment or reassessment is made, whichever is earlier, to have the matters relating to his assessment settled, the Central Board of Revenue may, after considering the terms of settlement proposed and subject to the previous approval of the Central Government, accept the terms of such settlement, and, if it does so, shall make an order in accordance with the terms of such settlement specifying among other things the sum of money payable by the assessee.

(1C) Any sum specified in a settlement arrived at in pursuance of sub-section (1B) may be recovered and any penalty for default in making payment of any such sum may be imposed and recovered in the manner provided in Chapter VI.

(1D) Any settlement arrived at under this section shall be conclusive as to the matters stated therein; and no person, whose assessments have been so settled, shall be entitled to reopen in any proceeding for the recovery of any sum under this Act or in any subsequent assessment or reassessment proceeding relating to any tax chargeable under this Act or in any other proceeding whatsoever before any court or other authority any matter which forms part of such settlement."

3. Amendment of section 35, Act XI of 1922.—In section 35 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) Where as a result of proceedings initiated under sub-section (1A) of section 34—

(a) a firm or an association of persons is assessed or reassessed, or

(b) a company is assessed or reassessed and in respect thereof an order under section 23A is subsequently made;

and the Income-tax Officer concerned is of opinion that it is necessary to compute or recompute the total income of a partner in the firm or a member of the association of persons or a shareholder in the company, as the case may be, but such computation or recomputation cannot be made by reason of the time-limit specified in sub-section (1) of section 34 having expired, the Income-tax Officer may, notwithstanding the expiry of the time-limit aforesaid, on his own motion and after giving notice to the assessee of his intention so to do, and after giving him a reasonable opportunity of being heard, proceed to compute or recompute the total income as if the computation or recomputation is a rectification of a mistake apparent from the record within the meaning of this section; and the provisions of sub-section (1) shall apply accordingly, the period of four years specified in sub-section (1) being computed from the date of the final order passed in the case of the firm, association or company, as the case may be."

4. Repeal of Ordinance 8 of 1954.—The Indian Income-tax (Amendment) Ordinance, 1954 (8 of 1954), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to enable investigations to be made into certain cases of tax evasion during war-time. A number of such cases has been referred to the Income-tax Investigation Commission under section 5(1) of the Commission Act. A number of other cases was subsequently referred to the Commission under section 5(4) of that Act. As the Supreme Court has held the latter provision to be invalid, an Ordinance had to be promulgated to amend the Indian Income-tax Act so as to provide for the application of the normal machinery to such cases. In order that there may be no harassment to small assesseees the Ordinance provides that the amendment now made to the Income-tax Act shall have effect only in those cases where the evasion exceeds one lakh of rupees and the previous approval of the Central Board of Revenue has been obtained for the initiation of proceedings in such cases. The present Bill seeks to replace the Ordinance.

2. The Bill also provides a machinery for the settlement of such cases as does the Commission Act. It also makes a consequential amendment in section 35 of the principal Act.

C. D. DESHMUKH.

NEW DELHI;

The 30th August, 1954.

BILL No. 29 OF 1953

A Bill further to amend the Government of Part C States Act, 1951.

WHEREAS it is expedient further to amend the Government of Part C States Act (XLIX of 1951), for the purposes hereinafter appearing:

BE it enacted by Parliament as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Government of Part C States (Amendment) Act, 1953.

(2) It shall come into force at once.

2. **Amendment of section 1, Act XLIX of 1951.**—In section 1 of the Government of Part C States Act, 1951 (hereinafter referred to as the said Act, the proviso to sub-section (2) shall be omitted.

3. **Amendment of section 3, Act XLIX of 1951.**—In section 3 of the said Act,—

(i) in sub-section (2), after the word “Delhi”, the words “Tripura, Cutch and Manipur” shall be inserted; and

(ii) for sub-section (4), the following shall be substituted, namely:—

“(4) In those States where Electoral Colleges have been constituted, and Legislative Assemblies have not been elected, these Electoral Colleges shall elect the Legislative Assemblies of the States, consisting of as many seats as are allotted to them in the Third Schedule. The election to the Legislative Assemblies by the respective Electoral Colleges shall be held in accordance with the system of proportional representation by means of the single transferable vote:

Provided that before the next general elections, the Assembly constituencies of these States shall be properly delimited by the Delimitation Commission and the election to the Legislative Assemblies of these States shall be by direct suffrage.”.

4. **Omission of section 23, Act XLIX of 1951.**—Section 23 of the said Act, shall be omitted.

5. **Amendment of section 36, Act XLIX of 1951.**—In section 36 of the said Act, the first proviso to sub-section (1) shall be omitted.

6. **Omission of section 40, Act XLIX of 1951.**—Section 40 of the said Act, shall be omitted.

7. **Omission of section 42.**—Section 42 of the said Act, shall be omitted.

8. **Amendment of the Third Schedule, Act XLIX of 1951.**—In the Third Schedule to the said Act, under columns 1, 2, 3 and 4 the following shall be added at the end, namely:—

“TRIPURA	30	To be settled by the Delimitation Commission before the next General Elections.	To be settled by the Delimitation Commission before the next General Elections,
MANIPUR	30	Do.	Do.
CUTCH	30	Do.	Do.

STATEMENT OF OBJECTS AND REASONS

An anomalous position exists with regard to the administration of certain Part C States. While elected Legislative Assemblies and responsible Governments exist in certain Part C States, the people in Tripura, Manipur and Cutch are denied this minimum measure of popular administration. The aim of this Bill is to remove this anomaly.

Secondly, even in those States which possess responsible Governments, the Chief Commissioner or the Lieut. Governor have over-riding powers over the Ministries. The Bill also aims at restricting the powers of the former *vis-a-vis* the latter.

V. P. NAYAR.

BILL No. 31 of 1953

A Bill to regulate and licence institutions caring for women and children.

WHEREAS it is expedient to enact a law to regulate and licence orphanages and other institutions caring for women and children under eighteen years of age and to provide for the proper custody, care and training of their inmates.

BE it enacted by Parliament as follows:—

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Women's and Children's Institutions Licensing Act, 19

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. Definition.—(1) In this Act, unless there is anything repugnant to the subject or context,—

(i) "child" includes a boy or a girl who has not attained the age of eighteen;

(ii) "institution" includes an orphanage, vigilance home, rescue home, shelter and any other home or place run by Government or any local authority or by private individuals or organisations, which provides for the care of five or more women and/or children or which is so organised or administered that its service is essentially institutional in character regardless of the number of inmates cared for;

(iii) "licensing authority" means the District Magistrate of a district or any special officer appointed by the District Magistrate to perform on his behalf the duties of the licensing authority;

(iv) "manager" means the owner and any person having or acting in the care of management of a women's or children's institution, vigilance home, rescue home, shelter or other such institution and the members of the governing body of that institution, if any;

(v) "person" includes an institution, association or body of individuals whether incorporated or not, established for or having for its object the reception or protection of women or children or the prevention of cruelty to children or exploitation of women for immoral purposes and which undertakes to train and rehabilitate, or to bring up or to give facilities for training or rehabilitation or bringing up of any woman or child entrusted to its care in conformity with the religion of her or his birth;

(vi) "woman" includes a female of eighteen years of age and above;

(vii) "year" means the calendar year Christian era.

(2) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1898, shall have the meaning assigned to them in that Code.

PART II

LICENSING

3. Licence required to run a Children's Institution.—(1) No person, shall, without first having obtained a written licence from the licensing authority own, establish, maintain or conduct any Women's and Children's Institution, under any name for the reception or care of women and/or children nor shall either receive or care for any woman or child in the absence of her husband, parent or lawful guardian, with or without maintenance.

(2) An application for securing licence for an institution shall be made in writing in the prescribed form by the manager of an institution caring for women and/or children to the licensing authority.

(3) The licensing authority shall thereupon cause enquiry to be made in respect of such application with special reference to the constitution, aims, objects and financial stability of the organization, as also arrangements for board and lodging, general health of the inmates and facilities for their education, medical treatment, industrial training and rehabilitation.

(4) The licensing authority on such enquiry may if satisfied grant a licence in respect of such place, and the licence shall remain in force for the calendar year subject to such conditions and requirements as may be prescribed.

(5) The licence, besides giving the name of the institution, its managers, and its location, shall specify the number, sex, age and other limitation as to the women or children to be admitted and the performance of the services.

4. Renewal of licence.—Application for renewal of a licence shall be filed, at least thirty days prior to its expiration. If no such application is filed, the licence shall automatically cease at the end of the calendar year.

5. Non-transfer of licence.—No licences shall be transferable.

6. Change of licence or service not permitted.—The location of any Institution specified in the licence, and the performance of any service specified therein shall not be changed without the written consent of the licensing authority.

7. Maintenance of register of records.—Every holder of a licence shall maintain a register in the prescribed form setting forth the following facts concerning each woman or child on admission received into the care of such licence holder—

- (a) name of the woman or child;
- (b) age, sex, and religion;
- (c) condition of her or his health on admission;
- (d) last address;
- (e) nearest of kin;
- (f) names of father and mother stating whether dead or living and name of husband in case of a married woman or a girl;
- (g) persons responsible for her or his care;
- (h) amount, if any, paid for care;
- (i) name of person or agency seeking admission of the woman or child;
- (j) reasons for admission;
- (k) terms and conditions of admission;
- (l) a brief history of the case; and
- (m) such other data as from time to time may be required by the licensing authority.

8. Holder of licence to file copy of register.—Every holder of licence shall file a copy of the register of records with the licensing authority at the time of issue of the licence.

9. Monthly statement of admissions and discharges to be filed.—The holder of the licence shall further furnish to the licensing authority a monthly statement in the prescribed form of all new admissions and discharges.

10. Death of persons and administrative changes to be reported.—Upon the occurrence of a death of any inmate or any changes in the administrative personnel of any such institution, the holder of the licence shall within forty-eight hours give notice in writing to that effect to the licensing authority:

Provided that the incident of a sudden death shall be reported to the licensing authority immediately.

11. Managers of institutions bound to teach and train every child admitted.—The manager of the institution shall be bound to teach, train, lodge, clothe and feed every woman or child, admitted in the institution till the woman is rehabilitated or the child attains the age of eighteen years:

Provided that no such responsibility as aforesaid, shall be a binding on the manager if he resigns from the institution or if the licence of the institution is withdrawn.

12. Penalty for operation without licence.—(1) Any person, who maintains, conducts as manager or officer in any other administrative capacity or assists in maintaining or conducting any institution and

contravenes the provisions contained in section 8 of this Act shall be guilty of an offence punishable with imprisonment which may extend to two months or with fine not exceeding two hundred rupees or with both.

(2) The inmates of any such institution shall be removed from there by the licensing authority and shall be placed in some other licenced institution.

PART III

MANAGEMENT AND INSPECTION

13. Governing Body.—Every institution licenced under this Act shall be under the management of a Governing Body, the members of which shall be deemed to be the managers of the institution for the purpose of this Act and shall be deemed to be responsible for the organization.

14. Audited accounts to be submitted to the licensing authority.—Every institution shall maintain proper accounts of all sums of money received and spent, and shall file with the licensing authority an annual statement of accounts duly audited by a chartered accountant.

15. Inspection by the licensing authority.—(1) Any institution may be inspected at all reasonable hours by a licensing officer or any member of his inspecting staff for the purpose of looking after the health and welfare of the children and the sanitation of the premises.

(2) The licensing officer or any member of his inspecting staff shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purpose, and the person in-charge of the place shall afford all reasonable facilities for such inspection.

(3) The officer so inspecting shall at the conclusion of his inspection record his remarks in the visitor's book of the institution.

(4) The licensing authority shall communicate to the institution inspected by him or his representative any suggestion he has to make on receiving the report of his representative.

16. Government if dissatisfied may withdraw licence.—(1) The State Government concerned, on a report from the licensing authority if dissatisfied with the conditions, rules, management or superintendence of a licenced institution, may at any time by notice served on the managers of the institution declare that the licence be withdrawn as from a date specified in the notice, and the institution shall cease to function from that date.

(2) The State Government concerned may instead of cancelling a licence under sub-section (1) by notice served on the managers of the institution prohibit further admissions to the institution for such time as may be specified in the notice or until the notice is revoked:

Provided that before the issue of a notice under sub-sections (1) and (2) a reasonable opportunity shall be given to the manager of the institution to show cause why the licence may not be withdrawn or admission to the institution may not be prohibited, as the case may be.

17. Resignation of licence by managers and its effect.—(1) The manager of the institution may, on giving six months notice in writing to the State Government through the licensing authority of his intention to do so, apply for cancellation of the licence of the institution, and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the cancellation of the licence shall take effect and the institution shall cease to function.

(2) A woman or a child shall not be received into the institution after the date of receipt, by managers of the institution, of a notice of withdrawal of licence or after the date of a notice of cancellation of the licence:

Provided that the obligation of the managers to teach, train, lodge, clothe and feed any inmates in the institution shall continue until the withdrawal or cancellation of the licence takes effect.

18. Custody of inmates of institution on cancellation of licence of an institution.—The licensing authority, on cancellation of the licence of any place under sections 16 and 17 or otherwise closing down of an unauthorised institution under section 12, may direct that any woman or child who is an inmate of such place, be,—

(a) restored to the custody of her or his parent, husband or guardian, as the case may be;

(b) released to the care of any other fit person; or

(c) transferred to another institution.

19. State Governments to make rules for management of institutions.—The State Governments are empowered to make such rules and regulations as they deem fit for the management of the institutions or for the performance of their services.

20. Local Authority competent to fix standards for sanitation, Health and hygiene for institutions.—The provisions of this Act shall not prevent the local authority of any city or district from adopting rules and regulations prescribing standards of sanitation, health and hygiene for the institutions.

STATEMENT OF OBJECTS AND REASONS

A large number of bogus children's houses and orphanages are existing in the country and exploiting destitute women and children. Inhuman conditions prevail in these institutions. In order to protect women and children from such exploitation, legislation is necessary to regulate and licence orphanages and other institutions caring for women, and children under eighteen years of age, and to provide for the proper custody, care and training of their inmates. Article 39 of the Constitution relating to the Directive Principles of State Policy lays down *inter alia* that "The State shall in particular direct its policy towards securing that childhood and youth are protected against exploitation, and against moral and material abandonment."

This Bill seeks to secure the early realisation of this objective.

JAYASHRI RAJJI.

BILL No. 36 OF 1953

A Bill to provide for and consolidate the law relating to suppression of immoral traffic in women and brothers.

WHEREAS it is expedient to provide for and to consolidate the law relating to prostitution in India, and to provide for efficient enforcement thereof;

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Suppression of Immoral Traffic and Brothels Act, 19 .

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(i) “brothel” means any house, room, place, premises or any portion thereof which the occupier or person in charge thereof allows to be used by another person for the purpose of prostitution and includes any vehicle which the person driving or in charge of allows to be used by another person for the purpose of prostitution;

(ii) “commissioner of police” means the Commissioner of Police for the Cities of Madras, Bombay and Calcutta;

(iii) “magistrate” means a salaried Presidency Magistrate or Magistrate of the first class, inclusive of the Commissioner of Police;

(iv) “prescribed” means prescribed by rules made under Section 18 of this Act;

(v) “prostitution” means promiscuous sexual intercourse for hire, whether in money or kind, and includes an act of offering the body to indiscriminate lewdness or sexual intercourse for a consideration;

(vi) “prostitute” means any female available for the purpose of prostitution;

(vii) “public place” means a place including road, street or way, whether a thoroughfare or not and a landing place to which the public are granted access or have a right to resort or over which they have a right to pass and includes a refreshment room, eating house, coffee house, boarding house, lodging house, tea shop or any other place whether enclosed or open to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place;

(viii) “rescue home” means a corrective institution established or recognised by the State Government in which girls under the age of eighteen years and women rescued from any brothel, disorderly house or place of assignation, are placed in pursuance of this Act and given such training and instruction and subjected to such disciplinary and moral influence as will conduce to their reformation and the prevention of offences under this Act;

(ix) “shelter” is an institution established or recognised by the State Government in which girls and women undertrials are kept in pursuance of this Act;

(x) "superintendent of police" means a District Superintendent of Police, or any person appointed by the State Government to perform the duties of the Superintendent of Police for the purpose of this Act;

(xi) "vigilance home" means a corrective institution established or recognised by the State Government, in which women are detained in pursuance of this Act and given such training and instruction and subjected to such disciplinary and moral influence as will conduce to their reformation and the prevention of offences under this Act;

(xii) "woman" means a female who has completed the age of eighteen years and above.

3. Common prostitute in vicinity of public places.—Whoever carries on prostitution in any premises,—

(a) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare, or

(b) which are notified in this behalf, by the Commissioner of Police or the District Magistrate, in the manner prescribed by rules made by the State Government,

shall be punished with imprisonment which may extend to three months or with fine which may extend to two hundred rupees, or with both.

4. Punishment for keeping or managing a brothel.—(1) Any person who keeps or manages or acts or assists in the management of a brothel shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Any person who,—

(a) acts as a tout or pimp on behalf of any prostitute; or

(b) being the tenant, lessee, occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(c) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets the same or any part thereof to any person convicted under sub-section (1) or to a person mentioned in clause (a) with the knowledge that such premises or some part thereof are or is to be used as a brothel; or

(d) is wilfully a party to the use of such premises, or any part thereof,

shall be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) Notwithstanding anything contained in any other law for the time being in force, a Court convicting the lessee, tenant, occupier or person residing in any house, room, place, premises or any portion thereof for offences under sub-section (1) or clauses (a) and (b) of sub-section (2) may summarily dispossess any such lessee, tenant, occupier or person occupying or residing in any such house, room, place, premises or any

portion thereof and put the lessor or the landlord or the agent of such lessor or landlord in possession thereof.

(4) When the lessor or landlord or the agent of such lessor or landlord is put in possession of any house, room, place, premises or portion thereof under the provisions of sub-section (3) he shall not grant another lease or enter into another contract of tenancy to or for the benefit of the same person or persons without causing to be inserted in such lease or contract all reasonable provisions for the prevention of recurrence of any such offences. Any lessor or landlord or the agent of any house, room, place, premises or any portion thereof in pursuance of sub-section (3) who fails to comply with the provisions of sub-section (4) shall be punished with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

(5) Any person who having been convicted of an offence punishable under sub-sections (1) or (2) is convicted of a subsequent offence punishable under the said sub-sections shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both and may in addition be ordered by the Court convicting him, to execute a bond for a sum proportionate to his means with or without sureties to be of good behaviour for such period not exceeding three years as it thinks fit.

(6) If a conviction under sub-sections (1) and (2) is set aside on appeal or otherwise the bond so executed shall be void.

(7) An order for the execution of a bond in accordance with the provisions of sub-section (5) may also be made by an appellate Court or by a High Court when exercising its powers of revision.

(8) The provisions of Chapter VIII of the Code of Criminal Procedure 1898 (Act V of 1898) shall apply to orders made for the execution of bonds under this section and imprisonment for failure to give security shall be rigorous or simple.

5. Right of Police officer to enter into the brothel, and the custody of the girl.—(1) Where a Magistrate has reason to believe from a report made to him by a police officer or otherwise that a girl apparently under the age of eighteen years is living, or is carrying on, or is being made to carry on prostitution in a brothel, disorderly house, or place of assignation, he may issue an order to a police officer not below the rank of a Deputy Superintendent of Police specially authorised in writing in this behalf by the Commissioner of Police, or by the Superintendent of Police to enter into such brothel, disorderly house or place of assignation and to remove therefrom such girl, and thereupon such police officer shall have the power to enter into such brothel, disorderly house or place of assignation of such girl and any other girl found therein if, in his opinion, she is under the age of eighteen years and is living or is carrying on or is being made to carry on prostitution in such brothel, disorderly house or place of assignation.

(2) A girl who has been so removed shall be brought before the Court which shall make an enquiry in the manner prescribed for conducting trial and recording evidence in summons cases and if satisfied that she is living on or is being made to carry on prostitution in a brothel, disorderly

house or place of assignation, or living in a house used for immoral purpose or in any other circumstances calculated to cause, encourage or favour the prostitution and that the girl is under eighteen years of age may make an order that such girl be placed for a short period in a rescue home or in such other custody as the court for reasons to be stated in writing shall consider suitable:

Provided that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.

(3) Where the Court has arrived at a finding regarding the age of a girl dealt with under sub-section (2) such age shall for the purpose of that sub-section be deemed to be her true age and no order of the Court shall be deemed to be invalid or be liable to be interfered with in an appeal or revision on the ground that her age had not been correctly determined.

6. Place of custody of the girl.—When a girl has been removed from a brothel or disorderly house or place of assignation under the provisions of sub-section (1) of section 5 the police officer carrying out the removal or when a girl or woman who has been taken into custody under the provisions of this Act, shall until such girl or woman be brought before the Court cause her to be detained in a rescue home or shelter or in such other suitable custody other than a police station or jail, as may be prescribed in this behalf by the State Government, provided however that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.

7. Punishment for living on the earnings of prostitution.—(1) Any person not below the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of another person shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Where any person is proved—

(a) to be living with or to be habitually in the company of a person living on prostitution, or

(b) to have exercised control, direction or influence over the movements of a person living on prostitution in such a manner as to show that such person is aiding, abetting or compelling her prostitution with any other or generally, it shall be presumed until the contrary is proved that such person is knowingly living on the earnings of the prostitution of another within the meaning of sub-section (1):

Provided that the mother, or a son or daughter of a person living on prostitution shall not be punished under sub-section (1) unless it is proved to the satisfaction of the Court that such mother, son or daughter is aiding, abetting or compelling her prostitution.

8. Punishment for traffic in women or girls.—(1) Any person who takes or attempts to take or causes to be taken from one place to another any woman or girl with a view to her carrying on or being brought up to carry on prostitution or causes or induces any woman or girl to carry on prostitution shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Any offences under this section may be tried in any place to which the woman or girl is brought or in which an attempt to bring her is made or in any place from which she is brought or caused to be brought or from which an attempt to bring her is made.

9. Punishment for detention of a woman or a girl in a brothel.—(1) Any person who detains any woman or girl against her will,—

(a) in any brothel,

(b) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) A person shall be presumed to detain a woman or a girl in a brothel for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,

(a) withholds from her any jewellery, wearing apparel or other property belonging to her, or

(b) threatens her with legal proceedings if she takes away with her any jewellery or wearing apparel lent or supplied to her by or by the direction of such person.

(3) Notwithstanding any law to the contrary, a woman or girl mentioned in sub-section (2) shall not be liable to be proceeded against civilly or criminally for taking away or being found in possession of any jewel, wearing apparel, money or other property alleged to have been lent or supplied to or to have been pledged by such woman or girl by or to the person by whom she had been detained.

10. Punishment for inducement.—(1) Any person who induces a woman or girl to go from any place with intent that she may for the purpose of prostitution become the inmate of or frequent a brothel shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) An offence under sub-section (1) shall be triable in the place from which the woman or girl was induced to go or in any place to which she may have gone as a result of such inducement.

11. Punishment for prostitution.—(1) Whoever, in any street or public place or within sight of and in such manner as to be seen or heard from any street or public place whether from within any house or building or not,—

(a) by words, gestures, indecent exposures of his or her person or otherwise attracts or endeavours to attract attention for the purposes of prostitution, or

(b) solicits or molests any person for the purposes of prostitution, shall be punished with imprisonment for a term which may extend to one year or with a fine which may extend to one thousand rupees or with both.

(2) A Magistrate convicting any girl or woman who has not attained the age of thirty years, of an offence under sub-section (1), may in lieu of passing a sentence of imprisonment under the section pass a sentence of detention if she is a girl in a rescue home or if she is a woman in a vigilance home for a term which shall not be less than two years or more than five years.

(3) Where a Magistrate has arrived at a finding regarding the age of a girl or woman dealt with by him under sub-section (2) such age shall for the purpose of that sub-section be deemed not to be invalid or be liable to be interfered with in an appeal or revision on the ground that her age had not been correctly determined by the Magistrate.

(4) For the purposes of appeal and revision under the Code of Criminal Procedure, 1898 (Act V of 1898) a sentence of detention for any period passed under sub-section (2) shall be deemed to be a sentence of imprisonment for the like period.

12. Ejection from the premises used as a brothel.—(1) Any Presidency Magistrate or Superintendent of Police on information received or complaint made that any house, room, place, premises or any portion thereof is being run or used as a brothel by any person may on enquiry made in a summary manner and on being satisfied that it is so run or used by any person, notwithstanding any other law for the time being in force, summarily dispossess such person who resides in or occupies any such house, room, place, premises or any portion thereof found to have been so run or used, and put the lessor or landlord or the agent of such lessor or landlord in possession thereof:

Provided that if it is found that the lessor or landlord has so run or used the house, room, place, premises or any portion thereof the Magistrate may let the house to any tenant and arrange to pay the rent to the lessor or landlord as the case may be.

(2) An appeal or revision from any order or judgment under sub-section (1) shall lie to the High Court.

13. Punishment for seduction of a girl who is in custody.—Any person who having custody, charge or care of any girl or woman causes or aids or abets the seduction or prostitution of that girl or woman shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

14. Evidence as to the character of the accused.—Notwithstanding anything contained in any other law for the time being in force in any proceeding under this Act, evidence of bad character, general reputation of disposition shall be relevant and admissible against the accused.

15. Arrest without warrant.—(1) Any police officer not below the rank of an Inspector may arrest without a warrant any person who has committed an offence under sections 4, 7, 8, 9, 10 and 11 or against whom a reasonable complaint has been made or credible information has been received or is reasonably suspected or alleged to be suspected to be concerned in an offence punishable under section 11 shall be arrested under this section only if the name and address of such a

person be unknown to the police officer and cannot be ascertained by him then and there or if he has reason to suspect that a false name and address of his have been given.

(2) Any police officer authorised in this behalf in writing by the Commissioner of Police or the Superintendent of Police by special order may arrest without a warrant any person committing in his view any offence punishable under sections 8, 9, 10 or 11 if the name and address of such person be unknown to such police officer and cannot be ascertained by him then and there or if he has reason to suspect that a false name and address have been given.

16. Entry into certain premises without warrant.—(1) Notwithstanding anything contained in any other law for the time being in force any police officer not below the rank of an Inspector and any other police officer, authorised in this behalf in writing by the Commissioner of Police or the Superintendent of Police by special order or by orders by any Presidency Magistrate or First Class Magistrate may for the purpose of ascertaining whether an offence punishable under sections 4, 7, 8, 9, 10 and 11 has been or is being committed, enter without a warrant any premises in which he has reason to believe that any woman, or girl is living in respect of whom an offence punishable under sections 4, 7, 8, 9, 10 and 11 has been committed.

(2) Any police officer entering into the premises under sub-section (1) shall be entitled to remove therefrom any girl if in his opinion she is under the age of eighteen years and is carrying on or is being made to carry on prostitution in such premises.

(3) All the provisions of this Act shall apply in regard to any girl so removed under sub-section (2) as if she had been removed under sub-section (1) of section 5.

17. Magistrate to try certain offences.—None below the rank of a Magistrate as defined in clause (iii) of section 2 shall try offences under sections 4, 7, 8, 9, 10 and 11:

Provided that notwithstanding anything contained in clause (iii) of section 2 the Commissioner of Police shall not be deemed to be a Magistrate for the purpose of this section.

18. State Governments to make Rules for maintenance of girls under custody.—(1) The State Government may make rules,—

(i) for the maintenance of girls placed in a rescue home or homes or other suitable custody under sub-section (2) of section 5;

(ii) for the detention of girls under the provisions of section 6 subject to the restriction that no girl shall be detained in the custody of a person or body of a different religious persuasion from that of the girl;

(iii) for the purpose of carrying into effect the provisions of section 11 and section 12 and in particular and without prejudice to the generality of this power with regard to—

(a) the management of vigilance homes and the appointment, powers and duties of officials in such homes;

(b) the care, treatment, maintenance, training, instruction and control of the inmates of such homes;

(c) visits to and communication with, such inmates;

(d) the temporary detention of women sentenced to detention in vigilance homes until arrangements are made for sending them to such homes;

Provided that no woman shall be detained in the custody of any person or body of a religious persuasion different from hers;

(e) the transfer of a woman from one vigilance home to another ;

(f) the transfer from a vigilance home to a prison of women found to be incorrigible or exercising a bad influence and the period of their detention in such prison:

Provided that such period shall not exceed one year;

(g) the transfer to vigilance homes of women sentenced under section 11 and the period of their detention in such homes;

(h) the discharge of inmates from vigilance homes either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;

(i) the grant of permission to inmates to absent themselves for short periods.

(2) In making any rule under clause (iii) of sub-section (1) the State Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

STATEMENT OF OBJECTS AND REASONS

The large scale immoral traffic in women and children that is going on in our country has been a cause of grave anxiety for some time. Some States like Bombay, Madras, West Bengal and U. P. have taken measures for the suppression of immoral traffic, but it cannot be said that they are effective enough to eradicate the evil, while a greater number of States have taken no legislative action so far. There is, therefore, an urgent need to adopt uniform legislation for the entire country to check the further growth of this evil.

JAYASHRI RAIJI

BILL No. 19 OF 1954

A Bill further to amend the Electricity (Supply) Act, 1948:

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Electricity (Supply) Amendment Act, 19 .

2. Amendment of section 77, Act LIV of 1948.—In section 77 of the Electricity (Supply) Act, 1948 (hereinafter referred to as the principal Act),—

(a) after sub-section 1, the following new sub-section shall be inserted, namely:—

“(1A) if any licensee or other person pays any bonus except as permitted by sub-clause (xiii) of clause (b) of sub-paragraph (2) of paragraph XVII of the Sixth Schedule, he shall be punishable with imprisonment which may extend to three years or with fine which may extend to fifty thousand rupees or with both.”; and

(b) in sub-section (3) the following shall be added at the end, namely:—

“or by the President or Secretary of a registered Trade Union of the employees of the licensee or other persons against whom the complaint is made.

Explanation.—Where the complaint is against a licensee and also some other person or persons jointly, it shall be a sufficient compliance with this sub-section if the complainant is the President or Secretary of a registered Trade Union of the employees either of the licensee or of any other person complained against.”

3. Amendment of the Sixth Schedule, Act LIV of 1948.—In paragraph XVII of the Sixth Schedule to the principal Act, after sub-clause (xii) of clause (b) of sub-paragraph (2) the following new sub-clause shall be inserted, and shall be deemed always to have been so inserted, namely:—

“(xiii) All expenditure incurred on account of payment of bonus to employees earning less than one thousand rupees a month exclusive of such bonus.”

STATEMENT OF OBJECTS AND REASONS

The Sixth Schedule to the Electricity (Supply) Act, 1948 enables every Electricity Supply concern to earn what is therein called “clear profit” which is to be not more than 30 per cent. in excess of what is therein called the “reasonable return”. Paragraph XVII(2) of the Sixth Schedule provides that “clear profit” is to be calculated by deducting the items of expenditure and special appropriations mentioned in clauses (b) & (c) of sub-paragraph (2) from the items of income mentioned in clause (a) thereof. The Labour Appellate Tribunal in the case of the Bombay Suburban Electricity Supply Ltd. decided that bonus could not be paid to workmen out of the reasonable return nor could it be deducted as an expenditure allowable under paragraph XVII (2)(b) in calculating clear profit. Taking advantage of this decision many Electricity Supply concerns, including the British owned Calcutta Electric Supply Corporation, which make huge profits of about five thousand rupees per worker have refused to pay legitimate bonus to their workers. To remedy this situation

it is proposed to amend paragraph XVII (2)(b) with a view to including bonus as an item of allowable expenditure in calculating clear profit. This amendment has been made retrospective in order to establish the claims of the workmen to bonus which was their legitimate due in recent years. At the same time as it is necessary to provide against financial denudation of this country through payment of large amounts to foreign employees in the name of bonus, the allowable expenditure has been restricted to bonus paid to employees earning less than one thousand rupees a month exclusive of such bonus, and section 77 has been amended to penalise the payment of bonus to employees earning one thousand rupees or more.

It is also not a rare experience that State Governments often withhold sanction or authority to prosecute employers guilty of offences. So it is proposed to amend section 77(3) to enable courts to take cognizance of offences against this Act on the complaint of the President or Secretary of a registered Trade Union of the employees of the person or concern guilty of such offences.

SADHAN CHANDRA GUPTA.

BILL No. 26 OF 1954

A Bill to provide remedy and to regulate the ex-army personnel's litigation with respect to their pay, allowances, pension, gratuity and all other emoluments payable under army regulations and usage of the army and punishments inflicted on them without jurisdiction or in excess of jurisdiction, or in excess of the quantum prescribed by the army Laws.

Be it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title, application and commencement.—(1) This Act may be called the Ex-Army Personnel's Litigation Act, 19 .

(2) It shall apply to all persons, whether Commissioned Officers, Junior Commissioned Officers, soldiers, airmen or other persons, who have served the regular forces for any time and have been subject to the Indian Army Act, 1911, or the Army Act, 1950, or the Air Force Act, 1932, or the Air Force Act, 1950.

(3) It shall come into force on such date as the President may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions.—In this Act, unless the context otherwise requires,—

(i) "Ex-army Person" shall mean all persons whether Commissioned Officers, Junior Commissioned Officers, soldiers, airmen or any other persons, who have served the regular forces for any time and have been subject to the Army Act, 1911 or the Army Act, 1950 or the Air Force Act, 1932 or the Air Force Act, 1950.

(ii) 'litigation' shall include an application for the issue of a writ under article 32 or article 226 of the Constitution of India.

(iii) 'pay' shall mean the rate of pay with increase, if any, after specified period to which an officer, soldier, airman or other person during his colour service is entitled by reason of his rank appointment, trade group or trade classification and other remuneration such as proficiency pay, corps pay, engineer pay and the various forms of additional pay.

(iv) 'pension' shall mean a pension whether contributory or not, of any kind whatsoever payable to or in respect of any person and includes retired pay, a gratuity and any other sum or sums so payable by way of the return with or without interest thereon or any other addition thereto, or subscription to a provident fund.

(v) 'punishment' shall mean punishment of death, imprisonment in a civil or military prison or quarter guard and includes forfeiture, stoppage, deduction from or disallowance of pay and pension payable to Ex-Army personnel under any rule, regulation or order in force at the time of their enlistment or termination of the service.

(vi) All words and expressions used herein and defined in the Indian Army Act, 1911, the Army Act, 1950, the Air Force Act, 1932 and the Indian Penal Code, 1860 and not hereinbefore defined shall be deemed to have the meanings respectively assigned to them by the aforesaid Acts and Code.

3. Application by an ex-army person for prosecution.—Any ex-army person, who thinks that he has been punished without jurisdiction or in excess of jurisdiction or in excess of the quantum prescribed by the Army Act, 1950, the Air Force Act, 1932, and the Indian Army Act, 1911 may make an application to prosecute any person for any act done in the execution or intended execution of the Army Act, 1950, the Indian Army Act, 1911 or the Air Force Act, 1932 or in respect of any alleged neglect or default in the execution of the said Acts and such a petition shall be deemed to have been made under Section 190(c) of the Code of Criminal Procedure, 1898 (V of 1898) and no sanction for the prosecution of the person as required by Section 197 of the said Code shall be necessary for taking cognizance of the offence alleged to have been committed in the execution or intended execution of the aforesaid Acts or in respect of any neglect or default in the execution thereof.

4. Application by an ex-army person for issuing a writ.—Any ex-army person may make an application for the issue of a writ order or direction to the Central Government to admit a disability or family pension customarily payable under army regulations and usage of the army and family pension or disability pension which have been disallowed on the report of medical experts customarily inadmissible in judicial proceedings, and where the aforesaid pensions have been discontinued after the same were duly admitted and notified in Pension Circulars to be payable for life; an application for the issue of a writ, order or direction shall not be refused or dismissed on any ground without issuing a notice to the opposite party.

5. Institution of suits for declaration of title to pension etc.—Any ex-army person may institute a suit for declaration of his title to pension earned by him under army regulations or usage of the army

without giving a notice to the Central Government as required by Section 80 of the Code of Civil Procedure, 1908 (V of 1908). The declaration of his title to pension shall be deemed sufficient for all purposes of the suit as if he had claimed for arrears of his pension. The court fee payable on the arrears of pension may be recovered, if the declaration of his title is granted and the ex-army person prays for a decree with respect to the arrears, after the order of the court issued with respect to the declaration of his title.

6. Jurisdiction of High Courts to issue writs.—Every High Court, having jurisdiction over the place where the ex-army person was enlisted or where his services were terminated or where the incident with respect to any neglect or default in the execution of the Indian Army Act, 1911, the Army Act, 1950, and the Air Force Act, 1932, and the Air Force Act, 1950, occurred, shall have jurisdiction to issue writ, order or direction to the Central Government with respect to any emolument payable to a soldier under army regulations or usage of the army. An application for the issue of a writ, order or direction shall not be dismissed without issuing a notice to the respondent. The previous sanction of the Central Government required by Section 197 of the Code of Criminal Procedure, 1898 (V of 1898) shall not be necessary for the prosecution of any person for any Act done in the execution or intended execution of the Army Act, 1950, the Indian Army Act, 1911 or the Air Force Act, 1932, or the Air Force Act, 1950, or in respect of any alleged neglect or default in the execution of the said Acts.

STATEMENT OF OBJECTS AND REASONS

In the Indian Army Act, 1911, and in the Army Act, 1950, there is no provision to rectify any error or wrong due to any neglect or default in the execution of the said Acts. The Indian Air Force Act, 1932, is also silent as respects remedy against wrongs done by any person purporting to act in the discharge of his official duty in executing the said Act. Wrongs done in the execution of these Acts, when there is any dispute, usually go unrectified. It is a general principle of law that in every case where a man is wronged or endangered, he shall have remedy. In the British Army Act, 1881, provision has been made for action, prosecution or proceeding against any person for acts done in the execution or intended execution of that Act or in respect of any neglect or default in the execution of that Act. The view that an officer, soldier or any other person cannot claim his pay, allowances and pension as a matter of right in a court of law has now become obsolete by virtue of the recognition of 'Fundamental rights' by the Constitution itself. The want of a legal remedy to rectify wrongs done has the effect of an implied immunity for those purporting to act in the discharge of their official duty. This kind of immunity is not contemplated by the Army and the Air Force Acts. It is considered that this implied immunity should not be availed of to the prejudice of natural justice. Hence this Bill.

N. B. KHARE.

BILL No. 38 of 1954

A Bill to provide for the cremation of dead human bodies in India.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Funeral Reforms Act, 195 .

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Application of Act.—This Act applies—

(a) to all the citizens of India; and

(b) to any foreigner or any other person, residing in India for the time being.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “burial” means laying and the internment of a human dead body in the ground;

(b) “cemetery” includes grave-yards, burial grounds and such other place, used for the internment of the dead human bodies;

(c) “cremation” means burning of the dead human bodies on open pyres; and

(d) “crematorium” means a place where cremation is done.

4. Abolition of Burial.—Burial is abolished, and its practice in any form is forbidden.

5. Cremation.—Cremation shall be the only method for the disposal of the dead. No cremation of human remains shall take place except in a crematorium.

6. Mode of conveyance of a human dead body and control of cemeteries to vest with the Government.—(1) Hearses shall be used instead of biers for conveying a human dead body to the crematorium.

(2) All cemeteries existing before the commencement of this Act, shall belong to the Government which shall be used for the public utility purposes.

7. Penalties.—(1) Any person who contravenes the provisions of sections 4 and 5 or instigates any person to do so or intentionally aids the doing of that act, shall be punishable with imprisonment which may extend to one month or with fine which may extend to one thousand rupees or with both.

(2) Any person who contravenes the provisions of sub-section (1) of section 6 shall be punishable with fine which may extend to fifty rupees.

STATEMENT OF OBJECTS AND REASONS

The problem of disposal of the dead is of considerable importance to the well-being of the community.

There are two main systems prevalent in India, viz. the method of cremation, followed by a small section of the people and the burial system followed by large sections of the people in India. The burial system has in it dangerous potentialities to cause epidemics apart from cemeteries occupying land space at the cost of lands, which may well be utilised for agricultural and housing purposes.

The present Bill is intended to remove the dangers inherent in the burial system by abolishing it and replacing it by cremation being made compulsory for all communities.

SHANKAR RAO TELKIKAR.

BILL No. 33 OF 1954

A Bill further to amend the Pensions Act, 1871.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Pensions (Amendment) Act, 19 .

2. Amendment of section 7, Act XXIII of 1871.—In section 7 of the Pensions Act, 1871, after sub-section (2) the following shall be added, namely:—

“(3) pensions payable on account of:

(a) length of service, the giving up of which without leave is punishable with death or imprisonment;

(b) death or disablement occasioned on service of the class, mentioned in the preceding clause (a).

Such pensions shall be deemed to be payable by way of compensation to:

(i) the family of the deceased, which includes widow, mother, father, son, daughter, grandmother, grandfather, adoptive parents and adopted children, or

(ii) the disabled person himself for the loss of his earning capacity.”

STATEMENT OF OBJECTS AND REASONS

It is now 83 years since the Pensions Act, 1871 was enacted. The Workman's Compensation Act, 1923 and the Payment of Wages Act, 1936 recognize the right of compensation for death and disablement in certain circumstances. These Acts recognize the right of a person

to receive a living wage also. To refuse this right in cases of service, the giving up whereof without leave is punishable with death or imprisonment, would amount to discrimination affecting equality before the law or equal protection of the laws. The bar imposed on entertaining suits relating to pensions by Civil Courts under Section 4 of the Pensions Act, 1871 is inconsistent with the fundamental rights conferred by articles 14 and 31 of the Constitution. Hence this Bill.

N. B. KHARE.

BILL No. 30 OF 1954

A Bill further to amend the Army Act, 1950.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Army (Amendment) Act, 1954.

2. **Insertion of new section 57A, in Act XLVI of 1950.**—After section 57 of the Army Act, 1950, the following section shall be inserted, namely:—

“57A. Procedure for trying certain offences and the Jurisdiction of High Courts.—(1) Any person, not subject to this Act, charged,—

(i) with the preparation of documents mentioned in clause (a) of section 57; or

(ii) with the duty of determining the admissibility or otherwise of the facts contained in the documents mentioned in the preceding clause,

commits or abets as accessory before or after the fact, the commission of offences mentioned in clauses (a) to (e) of section 57, shall be deemed to be guilty of the afore-mentioned offences and shall on complaint being made to a High Court, by any person whether affected or not by this Act, be triable by the afore-said court without any previous sanction of the President or of the Head of the Department to which the accused person may belong.

(2) Any High Court, having jurisdiction over the place where the offence or abetment mentioned in sub-section (1) occurred or where the consequences of the offence accrued or where the complainant resides, shall have jurisdiction to try the accused in its original jurisdiction and the accused shall be liable to be punished with imprisonment, which may extend to two years or with fine not exceeding one thousand rupees or with both.

(3) No plea that the offence was committed before the commencement of the Constitution, shall constitute ground for exculpation of the offence.”

STATEMENT OF OBJECTS AND REASONS

For prosecuting a person subject to the Army Act 1950, for an offence under the Act, no previous sanction of the President or of the Head of the Department to which the accused belonged is deemed necessary, whereas a person not subject to the Army Act 1950, enjoys immunity from prosecution although the offence may be the same or similar as in the case of the person subject to the Army Act 1950. Since this difference offends Article 14 of the Constitution the necessity for this Bill arises.

N. B. KHARE.

BILL No. 29 OF 1954

A Bill further to amend the Army Act, 1950.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Army (Amendment) Act, 19 .

2. Insertion of new section 61A in Act XLVI of 1950.—After section 61 of the Army Act, 1950, the following new section shall be inserted, namely:—

“61A. Punishment for false and wrongful preparation of Pay bill etc. by a public officer, and Jurisdiction of High Courts.—

(1) When a public officer, not subject to this Act, having Jurisdiction over the record of an officer, junior commissioned officer, soldier or other person subject to this Act, charged with the duty of preparing, passing or countersigning documents, which constitute valuable security, in relation to the afore-mentioned persons, omits to prepare the record or prepares it, in a manner which he knows or believes to be false, or which omission or manner of preparation will have the effect of retaining or detaining any sum payable on account of pay, allowances or pension by the State, of any person, such public officer shall be deemed to be guilty of abetment of the offence mentioned in section 61 and shall be liable to be punished in accordance with the procedure laid down in sub-section (2).

(2) The President, the Comptroller and Auditor-General of India, or the Commander-in-Chief on complaint being made by the person affected by the afore-mentioned omission or manner, shall institute an inquiry or cause inquiries to be instituted and if on the report of the inquiry, it is found that the omission made or the manner employed was unauthorised by this Act, may order the public officer, responsible for the retention or detention of the afore-mentioned emoluments to make good the same from his property and tender an unconditional apology in respect of the retention or detention committed by him. If the authority, to whom complaint is made, be of the opinion that culpability involved in the case is very serious, he may order the public

officer to face a trial as if he has committed the abetment of the offence mentioned in section 61.

(3) Any High Court having jurisdiction over the place where the abetment is committed or where the consequences ensued, shall have jurisdiction to try the offence and may punish the offender with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both."

STATEMENT OF OBJECTS AND REASONS

The act of unlawfully detaining or refusing the pay of a person subject to the Army Act, 1950 is made punishable when the offender commits the offence of "detention of pay" after having received such pay. Where any officer, junior commissioned officer, warrant officer, non-commissioned officer or officer not subject to this Act commits the afore-said offence of "detention of pay" by making omission in an Acquittance Roll or other document or by any other manner, with the result that the pay of a person subject to this Act is detained, retained or withheld by the State, the offence goes uninvestigated and unpunished which is undesirable and as such needs to be rectified. Hence this Bill.

N. B. KHARE.

BILL No. 31 of 1954

A Bill to provide for the remarriage of widowers.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. **Short title and extent.**—(1) This Act may be called the Widowers' Remarriage Act, 1954.

(2) It extends to the whole of India except the State of Jammu and Kashmir and also applies to citizens of India domiciled in the territories to which this Act extends who are outside the said territories.

2. **Remarriage of a widower.**—A widower who intends to remarry shall marry only a widow.

Explanation.—(i) The "widower" includes a male person whose marriage with his previous wife has been dissolved by a decree of divorce.

(ii) The 'widow' includes a female person whose marriage with her previous husband has been dissolved by a decree of divorce.

3. **Penalty.**—Anybody who contravenes the provisions of Section 2 shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both and the marriage so performed shall be null and void.

STATEMENT OF OBJECTS AND REASONS

It is necessary in the best interests of society that widowers should be restrained from marrying unmarried girls. Hence the Bill.

KHUB CHAND SODHIA.

BILL No. 36 of 1954

A Bill to amend the Sixth Schedule of the Constitution of India.

WHEREAS it is desirable to amend some paragraphs of the Sixth Schedule of the Constitution of India in order to provide the District Councils of the autonomous districts of Assam with some definite financial sources to enable them to run their administration and also to give them some more powers;

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Constitution (Amendment of the Sixth Schedule) Act, 19

(2) It shall extend to all the autonomous districts of Assam specified in Part A of the table appended to paragraph 20 of the Sixth Schedule.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Amusement Tax" means any tax imposed by the State Government upon any amusement or play;

(b) "Betting Tax" means a tax imposed upon betting in the horse-races and other amusements by the State of Assam;

(c) "District Council" means a District Council of an autonomous district mentioned in Part A of the table appended to paragraph 20 of the Sixth Schedule;

(d) "liquor" means any spirit, distilled or non-distilled, whether country or foreign made, containing alcohol;

(e) "National Highway" means any road which is declared by the Government of India as a National Highway, the expenditure for the construction and the maintenance whereof is borne by the Central Government; and

(f) "State Government" means the State Government of Assam.

3. Amendment of the Sixth Schedule to the Constitution.—In the Sixth Schedule to the Constitution,—

(1) in paragraph 1, after the existing proviso to sub-paragraph

(3) the following new proviso shall be added, namely:—

"Provided further that the District or the Regional Council of an autonomous district concerned shall be

consulted and its consent obtained for any action proposed to be taken by the Governor under Clauses (a), (b), (d), (e), (f) or (g)";

- (2) in paragraph 2, for the second proviso to sub-paragraph (7) the following shall be substituted, namely:—

"Provided further that the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, of the North Cachar Hills and Mikir Hills may be the Chairman *ex-officio* of the District Council in respect of territories included in items 5 and 6 of Part A of the table appended to paragraph 20 of this Schedule, if the District Council so desires";

- (3) in paragraph 3,—

(a) in clause (a) of sub-paragraph (1) for the words "the allotment, occupation or use, or the setting apart, of land" the words "the allotment, occupation, use, sale or transfer, acquisition or requisition, or the setting apart, of land (including stones and sand therein)" shall be substituted;

(b) after the existing proviso to clause (a) of sub-paragraph (1) the following new proviso shall be added, namely:—

"Provided further that the consent of the District Council or the Regional Council concerned shall be previously obtained by the State Government for such compulsory acquisition.";

(c) for sub-paragraph (2) the following shall be substituted, namely:—

"(2) In this paragraph, a "reserved forest" means any area which is a reserved forest under the Assam Forest Regulation, 1891:

Provided that if at any time any portion of a reserved forest is deforested that portion shall *ipso facto* revert to the District Council concerned"; and

(d) to sub-paragraph (3) the following proviso shall be added, namely:—

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the bill together with a message requesting that the Council shall reconsider the bill, or any specified provision thereof, and in particular, shall consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Council shall reconsider the Bill accordingly, and if the Bill is passed again by the Council with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom."

(4) in paragraph 4,—

(a) for sub-paragraph (1) the following shall be substituted, namely:—

“(1) The Regional Council for an autonomous region in respect of areas within such region, and the District Council for an autonomous district in respect of areas within the district, other than those which are under the authority of the Regional Councils, if any, within the district, may constitute village councils or courts for the trials of suits and cases arising within the jurisdiction of a village council or court thus constituted, and may appoint suitable persons to be members of such village councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.”; and

(b) for sub-paragraph (3) the following shall be substituted, namely:—

“(3) The High Court of Assam shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply.”;

(5) in paragraph 7 after sub-paragraph (2) the following new sub-paragraphs shall be added, namely:—

“(3) Notwithstanding anything in this Constitution or in any legislation in the State of Assam, there shall be credited by the Assam Government to each of the District Funds of each of the autonomous districts specified in Part A of the table appended to paragraph 20 of this Schedule, not less than half of the revenue received from the respective District Council area from the following sources:—

(i) Reserved Forests.

(ii) Sale-Tax.

(iii) Betting and Amusement taxes.

(iv) Permit fees of all vehicles for plying on the National Highways and roads of the State falling within an autonomous district.

(v) Fees on liquor licenses and sale of liquor.

(vi) Agricultural Income-Tax.

(vii) Hydro-electric power whose water sources fall within an autonomous district.

(4) A sum of one lakh of rupees shall annually be credited by the State Government to the District Council Fund of the United Khasi-Jaintia Hills autonomous district from the proceeds realized by the State Government from the State transport for running a passenger and goods traffic service on the portion of the Shillong-Gauhati National Highway, falling within the autonomous district of the United Khasi-Jaintia Hills.

(5) There shall be credited annually to a District Fund of a District Council a sum ranging from not less than one lakh to not more than three lakhs of rupees according to the needs and conditions of each District Council, and to the fund of the Regional Council in south Lushai Hills a sum of not less than fifty thousand rupees, as subvention by the Central Government through the Assam Government."

(6) in paragraph 8 to sub-paragraph (1) the following proviso shall be added, namely:—

"Provided that a District or Regional Council shall have the power to deviate from the principles mentioned in sub-paragraph (1) whenever such principles are considered to be impracticable for its area."

(7) in paragraph 9 to sub-paragraph (1) the following proviso shall be added, namely:—

"Provided that no license or lease for the purpose of prospecting or extraction of minerals in any Regional Council or District Council area shall be granted by the State Government to any one without obtaining the previous consent of the District Council or Regional Council concerned."

(8) in paragraph 12,—

(a) to clause (b) of sub-paragraph (1) the following proviso shall be added, namely:—

"Provided that the application or the non-application of any Act mentioned in clause (b) of sub-paragraph (1) of this paragraph shall be done after consulting the Regional Council or District Council concerned and obtaining its consent."; and

(b) to sub-paragraph (2) the following proviso shall be added, namely:—

"Provided that previous consent of the Regional Council or District Council concerned shall be obtained before any direction is made for any Act to have retrospective effect."

(9) in paragraph 14,—

(i) to sub-paragraph (2) the following proviso shall be added, namely:—

"Provided that the report of such Commission shall be sent by the Governor to the District Council whose views shall be obtained by him and be laid before the Legislature of the State together with his recommendations stated in sub-paragraph (2)"; and

(ii) to sub-paragraph (3) the following proviso shall be added, namely:—

"Provided that in allocating the business of the Government of the State, the Governor shall appoint two Ministers from among the Assam Legislative

Assembly members of the autonomous districts and shall place one or both of them in charge of the welfare of the autonomous districts of the State."

(10) in paragraph 20 for the proviso to sub-paragraph (2) the following shall be substituted, namely:—

"Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, clause (d) of sub-paragraph (3) of paragraph 8, no part of the area comprised within the Municipality of Shillong shall be deemed to be within the District:

Provided further that the words "and buildings" in sub-paragraph (2) of paragraph 8, shall not apply to the area comprised within the Municipality of Shillong which is included in the United Khasi-Jaintia Hills District under sub-paragraph (2) of paragraph 20."

STATEMENT OF OBJECTS AND REASONS

At the time of the framing of the Constitution of India the Constituent Assembly considered the peculiar customs and manners of the six hill districts in Assam inhabited by hill tribes, and decided to give them a certain measure of autonomy by providing in the Sixth Schedule the formation of District Councils in each of the six hill districts. These six hill districts are called autonomous districts. After the working of these District Councils for about two years, it is found that there is a great necessity of putting them on a sound financial basis in order to enable them to function properly. The financial provisions in the Sixth Schedule are not enough to enable these District Councils to get enough finance to function successfully. So in this Bill provisions are proposed to meet this great need.

It has also been felt by the Hills people of these autonomous districts that the powers given to the District Councils are not adequate to enable them to carry on their administration effectively. This has created a very unwholesome feeling among the people in these autonomous districts. Hence this Bill.

B. KHONGMEN.

M. N. KAUL,
Secretary.

